



Patent
Attorney Docket No: MP-00101.P.1.1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)

Cohen et al.)

Application Number: 09/733,287)

Filed: December 8, 2000)

For: COMPLETELY RESTORABLE)
CONNECTIVE TISSUE DISTRACTION)
DEVICES AND TECHNIQUES)

Examiner: Manahan, Todd E..

Group Art Unit: 3732

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#9
Response
S. Byrce
5/20/03

Assistant Commissioner for Patents
Washington D.C., 20231

Sir,

RESPONSE TO RESTRICTION REQUIREMENT

In response to the Office Action mailed November 5, 2002, Applicants submit the following election and traverse. Applicants submit this response within six months of that mailing date. A fee of \$985.00 for Extension for response within the fifth month is enclosed.

I. ELECTION

Applicants elect the invention of Group I, drawn to a distraction device and methods.

This election is made with traverse.

The above-identified patent application has been examined for restriction purposes only.

The Examiner has set forth the following 6 Groups:

Group Number(s)	Claims	Subject Matter
I	1-25	A distraction device and methods
II	38, 42, 52, 55, and 58	A stabilizing device and methods

In the Office Action, the Examiner restricts the claims to Two distinct and independent inventions. For the following reasons, Applicants traverse this restriction requirement.

A. Standard for Restriction

The M.P.E.P. (Feb. 2000) sets forth the standard for restriction requirements.

There are two criteria for a proper requirement for restriction between patentably distinct intentions:

- A. The inventions must be independent (see M.P.E.P. §802.01, §806.04, §808.01) or distinct as claimed (see M.P.E.P. §806.05 - §806.05(i); and
- B. There must be a serious burden to the examiner if restriction is not required (see M.P.E.P. §803.02, §806.04(a) - (j), §808.01(a) and §808.02)

M.P.E.P. § 803 (Feb. 2000)

The term "independent" (i.e., not dependent) means that there is no disclosed relationship between the two or more subjects disclosed, that is, they are unconnected in design, operation, or effect, for example: (1) species under a genus which species are not useable together as disclosed or (2) process and apparatus incapable of being used in practicing the process.

M.P.E.P. § 802.01 (Feb. 2000).

B. The Claims

Claims of Group I, and Group II, as set forth in the application, while being patentably distinct, do not require restriction as they are connected by a single, searchable unifying relationship that connects the claims in design. M.P.E.P. § 802.01 (Feb. 2000). Because of the single, searchable unifying relationship, the Examiner would not be seriously burdened by searching and examining the claims together in a single application.

The claims are connected by a single searchable unifying relationship, namely distraction procedure for connective tissue. This unifying relationship connects the claims of the groups in design because all claims relate to the same distraction procedure. The single searchable unifying element can be primarily searched by electronically searching key words.

Because the claims as set forth in the application are patentably distinct, are not independent and are connected by a single searchable unifying element, the Examiner would not be seriously burdened by examining these claims together. Applicants request that the Examiner join the claims of Groups I, and II. Accordingly, the USPTO would not be unduly burdened to search and examine the claims of Groups I, and II.

III. CONCLUSION

Applicants elect the invention of Group I, however, based on the commonality of the subject matter, Applicants request that the Examiner join the pending claims of Groups I, and II into a single group. Applicants respectfully submit that the claims are ready for examination and in condition for allowance.

Please apply any charges not covered, or any credits, to **Deposit Account Number 501321** in the name of David R. Preston & Associates, having **Customer Number 24232**.

Respectfully submitted,

Date: April 23, 2003

A handwritten signature in black ink, appearing to read 'D. Preston', written over a horizontal line.

David R. Preston
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